

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Office Action dated October 3, 2006. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

Status of the Claims

As outlined above, claims 1-12 stand for consideration in this application, wherein claims 1-3, 5, and 10 are being amended to correct formal errors and to more particularly point out and distinctly claim the subject invention.

Additional Amendments

The specification is being amended to correct formal errors and to better disclose and describe the features of the present invention as claimed. All amendments to the application are fully supported therein. Applicants hereby submit that no new matter is being introduced into the application through the submission of this response.

Prior Art Rejections

35 U.S.C. §102(b) rejection

Claims 1 and 10 were rejected under 35 U.S.C. §102(b) as being anticipated by Tuurna et al. (U.S. Pat. 5,826,530). Applicants respectfully traverse this rejection for the reasons set forth below.

According to the M.P.E.P. §2131, a claim is anticipated under 35 U.S.C. §102 (a), (b), and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Claim 1

Claim 1 as amended recites that a strut is capable of being hinged at the upper end thereof to the fore end of the backbone to be movable between a position extending downward from the fore end of the backbone and a position along the backbone. Fig. 1 illustrates an exemplary sailing device recited in claim 1. As shown in Fig. 1, a strut 4 is hingedly connected to a backbone 1 to be movable between a position extending downward

from the fore end of the backbone 1 and a position folded along the backbone 1 (page 8, lines 13-20 of the specification).

In contrast, Tuurna merely shows that a wing sail 1 comprises a sail cloth 2 supported on two mast tubes 3a, 3b positioned in a V-shaped defining a nose angle, a boom 4 which is located between the mast tubes and curved at the symmetry plane of the wing sail and connected to each mast tube by each supporting tubes 6a, 6b and a traverse tube 5 which is fastened to the mast tubes by connecting pieces. The mast tubes 3a, 3b and the boom 4 are connected to each other by a nose link to change the nose angle and fold the mast tubes toward the boom 4. The boom 4 in the wing sail shown in Tuurna may correspond to the backbone recited in claim 1. However, the wing sail shown in Tuurna does not include an element corresponding to a strut recited in claim 1. Tuurna shows no element capable of being hinged at its upper end to the fore end of the boom 4 to be movable between a position extending downward from the fore end of the boom 4 and a position along the backbone 4.

Therefore, Tuurna does not show every element recited in claim 1. Accordingly, claim 1 is not anticipated by Tuurna.

Claim 10

Claim 7, upon which claim 10 as amended depends has the substantially same features as those of claim 1, at least with respect to a strut being capable of being hinged at the upper end thereof to the fore end of the backbone to be movable between a position extending downward from the fore end of the backbone and a position along the backbone.

As such, the arguments set forth above are equally applicable here. Claim 1 being allowable, claim 10, which depends upon claim 7 must also be allowable.

35 U.S.C. §103(a) rejections

Claim 2 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tuurna in view of Talve (U.S. Pat. 4,382,417). Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tuurna in view of Brown (U.S. Pat. 4,269,133). Claim 5 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Tuurna in view of Priebe (U.S. Pat. 4,848,258). These rejections are respectfully traversed for the reasons set forth below.

According to the Manual of Patent Examining Procedure (M.P.E.P. §2143),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both not be found in the prior art, not in the applicant's disclosure.

As set forth above, Tuurna fails to teach all the elements recited in claim 1, upon which claims 2-5 depend. The secondary reference of Talva merely shows a glider sail assembly comprising a center boom which can be horizontally connected at the top of a mast and two side booms connecting to the center boom. The secondary reference of Brown merely shows a skate sail assembly comprising a boom and two rear ends coupling with the boom. The secondary reference of Priebe merely shows an airfoil sailing system comprising a mast and two booms connecting to the mast. However, none of the secondary references provide any disclosure, teaching or suggestion that make up for the deficiencies in Tuurna, namely, a strut being capable of being hinged at the upper end thereof to the fore end of the backbone to be movable between a position extending downward from the fore end of the backbone and a position along the backbone. As such, the arguments set forth above with respect to claim 1 are equally applicable here. Accordingly, claims 2-5 are not obvious over all the prior art cited.

Allowable Subject Matter

Applicants thank the Examiner for holding that claims 6-9 and 11-12 would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants acknowledge the Examiner's statement of reasons for allowance as set forth in the Office Action. However, Applicants will point out that the reasons for allowability of the above referenced claims are not limited to the reasons for allowance as set forth in the Office Action.

As to dependent claims 6-9 and 11-12, the arguments set forth above with respect to independent claim 1 are equally applicable here. The base claim being allowable, claims 6-9 and 11-12 must also be allowable in the form of a dependent claim.

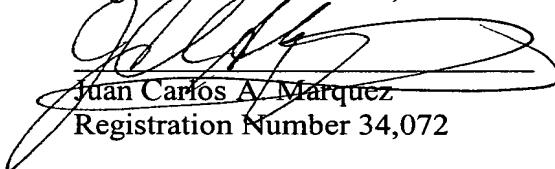
Conclusion

In view of all the above, Applicants respectfully submit that certain clear and distinct differences as discussed exist between the present invention as now claimed and the prior art references upon which the rejections in the Office Action rely. These differences are more than sufficient that the present invention as now claimed would not have been anticipated nor rendered obvious given the prior art. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application as amended is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicants' undersigned representative at the address and phone number indicated below.

Respectfully submitted,

Stanley P. Fisher
Registration Number 24,344


Juan Carlos A. Marquez
Registration Number 34,072

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042
(703) 641-4200

February 5, 2007
SPF/JCM/YOM